THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.1477 of 2005

Dated: 14.08.2006

Between
Gangi Venkata Subba Rayudu

…..Petitioner

and

1. The Secretary, Irrigation and CAD
(Project Wing) T.G.P.II) Department
Secretariat, Hyderabad and others.

….Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

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ORDER:

It seems that the lands of Ramaswamy Temple, Byanapalli, Ontimitta Mandal, Kadapa District in S.No.241B House No.2 and Sri Ramaswamy Temple, Kadapa Slab 48-18 sq.mt.Platform 2 Nosr.54-00 sq.mt were acquired by invoking the land acquisition proceedings under Section 4 (1) of the Land Acquisition Act dated 23.3.1981. Thereafter, an award dated 17.09.1986 was passed. Insofar as the structures are concerned, it is stated in the very award that the structures notified in the name of Sri Ramaswamy Temple are not valued. Further, it is noticed in the award that neither the Endowments Department nor any private person claimed this as that of their own and that the Engineering Department has also not furnished any estimate for the structures and hence, supplemental award will be passed in case of any claim made by the Endowments Department or any individual claimant.

Now, the learned counsel for the petitioner states that an amount of Rs.2,08,137/- was paid on 17.2.1998. But, according to the learned counsel for the petitioner, it is not an ex-gratia, but it is the compensation as per the land acquisition proceedings. Therefore, the petitioner is entitled to get the matter referred under Section 18 of the Land Acquisition Act to a competent Civil Court for the purpose of deciding the correct market value.

In the counter filed by the respondents, it is stated that there was no notification with regard to the Temple and no award was passed. An amount of Rs.2,08,137/- was paid towards ex-gratia, as it was assumed the status of left over structure. As such, the matter was not referred to the Civil Court under Section 18 of the Land Acquisition Act and therefore, in the instant case, payment of compensation does not arise since the supplementary awards and supplementary notifications are prohibited by Land Acquisition Act and Gos.

It is unfortunate that such a stand was taken by the respondents. In fact, the very Gazette notification dated 23.3.1981 categorically indicates that these structures relate to Ramaswamy temple. Further, even in the award dated 17.9.1986, it is stated that though the structures were not valued, but the compensation will be paid as and when the claim is made by the Endowments Department or by the individual claimant. Instead of paying the compensation, some ex-gratia of Rs.2,08.137/- was paid by the respondents.

In view of the fact that there was a notification issued under Section 4 (1) of the Land Acquisition Act and thereafter, an award was passed by the Land Acquisition Officer and ex gratia, which was received under protest, was paid, the petitioner is entitled to get the matter referred to the civil Court under Section 18 of the Land Acquisition Act.

In view of the above, the respondents are directed to refer the matter to the civil Court under Section 18 of the Land Acquisition Act within a period of four weeks from the date of

receipt of a copy of this order.

Writ petition is disposed of accordingly. No costs.

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14.08.2006

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